

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket № 14306US02)

In the Application of:)	
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Jeyhan Karaoguz, et al.)	Electronically filed on 06-APR-2009
)	
Serial No. 10/675,081)	
)	
Filed: September 30, 2003)	
)	
For: METHOD AND SYSTEM FOR MEDIA)	
EXCHANGE NETWORK)	
FUNCTIONALITY SYNCHRONIZED)	
WITH MEDIA BROADCASTING)	
)	
Examiner: Patrick A. Ryan)	
)	
Group Art Unit: 2427)	
)	
Confirmation No. 5083)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on January 14, 2009 ("Final Office Action") with a period of reply through April 14, 2009. The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on March 24, 2009 ("Advisory Office Action"). No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS

The present application includes pending claims 1-31, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,240,555 ("Shoff"). The Applicant respectfully traverses these rejections at least based on the following remarks.

I. Examiner's Arguments in the Advisory Office Action

In response to Applicant's 3/16/2009 arguments, the Examiner states the following in page 2 of the Advisory Office Action:

The Examiner has equated Shoffs "digital data [that] supports interactive functionality" with Applicant's "synchronized functionality" (Final Office Action of 01/14/2009 Page 4). Shoff discloses that this digital data supports interactive functionality by defining aspects such as the display layout and how the supplemental content and the video program are to appear by defining aspects such as timing information (Col. 9 Line 66-Col. 10 Line 17). In addition, Shoff discloses that "digital data is packaged with the video stream and transmitted as one signal from the headend" (Col. 10 Lines 18-23), such as by using the vertical blank interval (VBI) between successive frames of the video (Col. 2 Lines 32-52), and the digital data can then be used to present supplemental information to the user (i.e. display screens of Figs. 8a-8c showing information such as a trivia game, as described in Col. 10 Lines 53-58). Therefore, it is the Examiner's position that the synchronized functionality of Shoff is not limited to hypertext data such as Web pages.

The Examiner is apparently equating Applicant's "synchronized functionality" to Shoff's "digital data which supports interactive functionality." As clearly stated in Shoff, this digital data simply "defines the supplemental content to enable viewer interactivity with the video content program." Shoff's digital data also defines the display layout when the supplemental content and the video program are displayed. Shoff's digital data further defines timing information to synchronize the presentation of the supplemental content and the video program. See Shoff at col. 10, lines 1-9. **The Applicant notes that only**

the supplemental content and the video program are displayed to the user (in the above citation, the Examiner acknowledges that “the digital data can then be used to present supplemental information to the user”). The fact remains that Shoff’s digital data only defines aspects of how the supplemental content is to be displayed to the user, and Shoff’s digital data is never presented to the user. In other words, even if Shoff’s digital data can be packaged with the video stream and transmitted as one signal, once received by the user equipment, the digital data is extracted and processed transparently to the user and is never used for purposes of “display on a television screen within a home,” as recited in Applicant’s claim 1.

Therefore, Shoff does not disclose or suggest at least the limitation of “the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home,” as recited by the Applicant in independent claim 1.

In response to Applicant’s 3/16/2009 arguments, the Examiner further states the following in page 2 of the Advisory Office Action:

Additionally, Applicant presents that Shoff does not teach “wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program” because “the broadcast video signals [of Shoff] are retransmitted since they originate from a satellite feed or cable system feed, I.e. remotely from the headend 22” (After Final of 03/16/09 Pages 16-17). The Examiner respectfully disagrees.

The Examiner upholds the arguments of Final Office Action of 01/14/2009 and emphasizes that the Applicant has provided no support within the Shoff reference to support headend 22 retransmitting broadcast video signals. It is the Examiner’s position that headend 22 is the point of origin for both the broadcast video signals (element 40) and the synchronized functionality (element 54) (as shown in Fig. 2).

Referring to Fig. 2 of Shoff, the Applicant points out that block 22 designates a television headend. **By definition, a television headend is a facility used to receive and re-transmit video signals over a local cable infrastructure. The television headend is merely a re-transmitter and not a broadcast program originating**

facility (i.e., where the broadcast signals originated without being received from another re-transmitting facility, such as another headend).

Therefore, Shoff does not disclose or suggest at least the limitation of "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program," as recited in Applicant's claim 1.

The Applicant maintains all arguments stated in the 3/16/2009 response to Final Office Action.

II. Conclusion

The Applicant respectfully submits that claims 1-31 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 06-APR-2009

By: /Ognyan I. Beremski/
Ognyan Beremski, Reg. No. 51,458
Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775 – 8100

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